

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                                          |   |                                   |
|------------------------------------------|---|-----------------------------------|
| COREY BRACEY,                            | ) |                                   |
|                                          | ) | Civil Action No. 1:11-cv-217      |
| Plaintiff,                               | ) |                                   |
|                                          | ) |                                   |
| v.                                       | ) | Judge Cathy Bissoon               |
|                                          | ) | Magistrate Judge Maureen P. Kelly |
| SECRETARY JEFFREY BEARD, <i>et al.</i> , | ) |                                   |
|                                          | ) |                                   |
| Defendants.                              | ) |                                   |

**MEMORANDUM ORDER**

Plaintiff, Corey Bracey, appeals the Magistrate Judge’s Memorandum Order (ECF No. 98), denying his Motion for Extension/Stay of Discovery Schedule (ECF No. 94). For the reasons that follow, the Magistrate Judge’s Order will be affirmed.

Plaintiff is an inmate at the State Correctional Institution (“SCI”) at Graterford, and brings this civil rights action against numerous officials of the Pennsylvania Department of Corrections (among others), claiming that his rights under the Eighth and Fourteenth Amendments were violated when he was illegally housed in the Special Management Unit at SCI Fayette and then, on the basis of that improper designation, improperly placed on the Restricted Release List at SCI Fayette and other state correctional facilities. The matter was referred to Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rule 72 of the Local Rules for Magistrates.

On September 9, 2013, Plaintiff filed a Motion for Extension/Stay of Discovery Schedule. (ECF No. 94). Magistrate Judge Kelly denied the Plaintiff’s Motion in an Order on September 12, 2013. (ECF No. 98). This appeal followed. (ECF No. 103).

If a party is dissatisfied with a Magistrate Judge's non-dispositive ruling, it may appeal to the District Judge, who may reconsider and set aside the ruling only if it is "clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); see also FED. R. CIV. P. 72(a); LCvR 72(C)(2); *Cipollone v. Liggett Group Inc.*, 785 F.2d 1108 (3d Cir. 1986). "A decision is clearly erroneous if the reviewing court is left with the definite and firm conviction based on all the evidence that the [lower] court made a mistake." *United States v. Perez*, 280 F.3d 318, 351 (3d Cir. 2002). A magistrate judge's denial of a request for an extension of discovery is a non-dispositive ruling subject to this deferential standard. See *Pennsylvania, Dept. of Environmental Protection v. Allegheny Energy, Inc.*, 2007 WL 2253554 at \*1 (W.D.Pa. 2007).

In her decision denying the Plaintiff's Motion for an Extension of the Discovery deadlines, Magistrate Judge Kelly reasoned:

... Plaintiff has not indicated that any discovery requests have not been complied with or what discovery is needed that has not been completed, and no motion to compel has been filed. Indeed, the record demonstrates, and Plaintiff appears to acknowledge, that he has been provided with the discovery he has requested to the extent he is entitled to it. See ECF No. 94, ¶¶ 2, 3. ECF Nos. 88, 89, 90. Plaintiff's failure to provide the Court with any explanation as to why he has not requested the discovery at issue or indicated what that discovery is or how it is relevant to his case, compels the Court to deny the Motion.

(ECF No. 98 at 2).

Having carefully reviewed the Magistrate Judge's Order and the documents cited therein, and the Plaintiff's objections thereto, the Court concludes that Magistrate Judge Kelly's Order was neither clearly erroneous nor contrary to law. Accordingly, the Plaintiff's objections (styled as an Appeal) (ECF No. 103) are **OVERRULED**, and the Order of Magistrate Judge Kelly dated September 12, 2013 (ECF No. 98) is **AFFIRMED**.

IT IS SO ORDERED.

October 11, 2013

s/Cathy Bissoon  
Cathy Bissoon  
United States District Judge

cc (via ECF email notification):

All counsel of record

cc (via First-Class U.S. Mail):

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